

For purposes of determining jurisdiction for local Retailers' Occupation Tax, the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. 86 Ill. Adm. Code 270.115. (This is a PLR).

November 21, 2001

Dear Xxxxxx"

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200 (see <http://www.revenue.state.il.us/legalinformation/regs/part1200>), is in response to your letter of October 19, 2001. Review of your request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to AAA for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither AAA nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

In your letter, you have stated and made inquiry as follows:

This letter is to request a Private Letter Ruling on behalf of AAA. At issue is the taxability of the sale of petroleum products delivered to customers located outside the corporate limits of a municipality. Following are the facts related to the ruling request:

1. On January, 1, 2002, the City, will implement a ½% Home Rule Municipal Retailers' Tax.
2. AAA will be located within the corporate limits of the City as of January 1, 2002.
3. AAA is in the business of selling bulk petroleum products including gasoline, diesel fuel and propane. AAA delivers fuel products to customers located both within and outside the corporate limits of the City.
4. Customers of AAA include small businesses, farmers and homeowners who represent end-users of the company's products. In a typical transaction, a company truck will leave the bulk plant with a supply of fuel available for sale. The driver will make routine stops along a designated route and deliver fuel products based on a specific customers needs. As the truck leaves the bulk plant, its contents are not committed to special customers.

The taxpayer requests a ruling as to the taxability of sales of petroleum products made to customers outside the corporate limits of the city when delivered from a vehicle with a

stock of goods available for sale. Are these sale transactions subject to the ½% Municipal Retail Tax imposed by the City?

The taxpayer believes that the transactions as identified are not subject to the ½% Municipal Retail Tax imposed by the City pursuant to Part 270, Section 270.115 of Title 86 of the Illinois Revised Statutes.

This issue is related to all tax periods ending after December 31, 2001. The taxpayer does not have an audit or litigation pending with the Illinois Department of Revenue.

To the best of the knowledge of the taxpayer and the taxpayer's representative, the Illinois Department of Revenue has not ruled on the same or a similar issue for the taxpayer or a predecessor. The taxpayer has not previously submitted the same or similar ruling to the Department of Revenue.

If you have any questions regarding this request for a private letter ruling, please contact ###.

For your general information, please see the enclosed copy of 86 Ill. Adm. Code 270.115 for guidance concerning jurisdictional questions. In general, the imposition of the various sales tax related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred.

The tax rate is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax. For these transactions the local tax will be incurred. Although 86 Ill. Adm. Code 270.115 deals with the municipal Home-Rule taxes, the principles outlined in this regulation apply to all local taxes administered by the Department.

Your letter indicates that your trucks visit an established customer base to sell your petroleum products based upon what we assume to be standing orders. In this circumstance, the place of delivery is not the factor that determines the tax rate. The location of your office in CITY is where the orders were accepted and therefore CITY's tax rate is applicable.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

I hope this information is helpful. If you have further questions concerning this Private Letter Ruling, you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at [www.revenue.state.il.us](http://www.revenue.state.il.us) or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

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MAJ:msk  
Enc.